

APPEAL NO. 032730  
FILED NOVEMBER 25, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 16, 2003. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the seventh quarter. The claimant appeals, contending that the hearing officer's decision is against the great weight and preponderance of the evidence and that the hearing officer erred in not making findings concerning whether the respondent (carrier) complied with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.108(a) (Rule 130.108(a)). In its response, the carrier urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the seventh quarter. The hearing officer was not persuaded that the claimant was limited to part-time work and that determination is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Thus, the hearing officer did not err in determining that the claimant's return to part-time work was not a return to work in a job relatively equal to the claimant's ability to work such that the claimant satisfied the good faith requirement pursuant to Rule 130.102(d)(1). The hearing officer further found that the claimant's job search was designed to qualify for the seventh quarter of SIBs and not designed to find employment and that the claimant did not attempt in good faith to obtain employment commensurate with his ability to work. That determination is not so contrary to the great weight of the evidence as to compel its reversal on appeal. Accordingly, no sound basis exists for us to disturb the hearing officer's determination that the claimant did not satisfy the good faith requirement under Rule 130.102(e). Given our affirmance of the hearing officer's determination that the claimant did not meet the good faith requirement under either Rule 130.102(d)(1) or Rule 130.102(e), we likewise affirm her determination that the claimant is not entitled to SIBs for the seventh quarter.

With regard Rule 130.108(a), the claimant asserts that the case should be remanded for the hearing officer to make findings concerning whether a comparison between quarters had been made by the carrier prior to disputing the seventh quarter. We have held that a carrier's failure to make such a comparison would involve a matter for the Division of Compliance and Practices and would not be grounds for finding reversible error. Texas Workers' Compensation Commission Appeal No. 021366, decided July 1, 2002; Texas Workers' Compensation Commission Appeal No. 031555, decided July 22, 2003. Accordingly, we perceive no reversible error in the hearing officer's failure to make specific findings concerning compliance with Rule 130.108(a).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **SERVICE LLOYDS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JOSEPH KELLEY-GRAY, PRESIDENT  
6907 CAPITOL OF TEXAS HIGHWAY NORTH  
AUSTIN, TEXAS 78755.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Edward Vilano  
Appeals Judge